

**SENATE JOURNAL
61ST LEGISLATURE
FIFTEENTH LEGISLATIVE DAY**

Helena, Montana
January 22, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the eighth, ninth, tenth, and eleventh legislative days, find the same to be correct.

Senator Curtiss, Chair

Correctly printed: **SB 41, SB 68, SB 115, SB 126, SB 140, SB 161, SB 181, SB 182, SB 257, SB 258, SB 259, SB 260, SB 261, SB 262.**

Correctly engrossed: **SB 152, SB 168, SB 197.**

REPORTS OF STANDING COMMITTEES

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):
SJR 4, introduced joint resolution, be amended as follows:

1/21/2009

1. Page 1, line 12 through line 14.

Strike: line 12 through line 14

2. Page 1, line 23.

Following: "examine"

Strike: "possible"

Insert: "cost-benefit"

Following: "options"

Strike: "for further consolidation of"

Insert: "and provide recommendations for improving"

3. Page 1, line 25.

Following: "explore"

Strike: "possible"

Insert: "cost-benefit"

Following: "options"

Strike: "for further consolidation of"

Insert: "and provide recommendations for improving"

And, as amended, be adopted. Report adopted.

SJR 8, introduced joint resolution, be amended as follows:

1. Page 1, line 24.

Following: "line 23"

Insert: "WHEREAS, Article X, section 8, of the Montana Constitution states that the elected board of trustees in each school district shall exercise supervision and control of schools in the district; and"

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

And, as amended, be adopted. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman): 1/21/2009
SB 215, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman): 1/21/2009
SB 111, do pass. Report adopted.
SB 131, introduced bill, be amended as follows:

1. Title, line 9 through line 10.
Following: "INCREASED FEES"
Strike: "OR" on line 9 through "PREMIUMS" on line 10

2. Title, line 11.
Strike: "AMENDING SECTION 33-24-102, MCA;"

3. Page 2, line 8.
Strike: "(a)"

4. Page 2, lines 10 and 11.
Strike: subsection (3)(b) its entirety

5. Page 2, line 18 through line 28.
Strike: section 2 in its entirety
Renumber: subsequent sections

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman): 1/21/2009
SJR 13, do pass. Report adopted.
SJR 14, do pass. Report adopted.

TAXATION (Essmann, Chairman): 1/21/2009
SB 21, introduced bill, be amended as follows:

1. Title, page 1, line 9 through line 12.
Strike: "PROVIDING" on line 9 through "DISTRIBUTIONS;" on line 12
Following: "PROVIDING" on line 12
Insert: "AN"
Strike: "DATES" on line 12
Insert: "DATE"

2. Page 3, line 7 through page 3, line 14.
Strike: sections 2 and 3 in their entirety
Renumber: subsequent sections

3. Page 3, line 16 through line 18.
Strike: "dates" on line 16

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Insert: "date"

Strike: "(1)" on line 16 through "1]" on line 18

Insert: "[This act]"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 1/21/2009

HB 57, introduced by Bean

HB 62, introduced by Hamilton

HB 67, introduced by Belcourt

HB 127, introduced by Sesso

HB 155, introduced by Pomnichowski

House joint resolution passed and transmitted to the Senate for concurrence: 1/21/2009

HJR 6, introduced by Lake

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 263, introduced by Shockley, Sales, Stoker, referred to Judiciary.

SB 264, introduced by Brueggeman, referred to Taxation.

SB 265, introduced by T. Brown, referred to Taxation.

SB 266, introduced by Cooney, Hamilton, Branae, Hawks, Hollenbaugh, Keane, Laslovich, McAlpin, A. Noonan, Sands, Schmidt, Villa, Williams, Wilson, referred to Education and Cultural Resources.

SB 267, introduced by Hamlett, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Perry in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 165 - Senator Lewis moved **SB 165** do not pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke.
Total 48

Nays: None.
Total 0

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Absent or not voting: Williams, Mr. President.
Total 2

Excused: None.
Total 0

SB 22 - Senator Murphy moved **SB 22** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Brenden, Cooney, Esp, Hinkle, Laslovich.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 77 - Senator Juneau moved **SB 77** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 89 - Senator M. Tropila moved **SB 89** do pass. Motion carried as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 36

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Curtiss, Esp, Essmann, Hinkle, Laible, McGee, Perry, Tutvedt, Mr. President.

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 117 - Senator Wanzenried moved **SB 117** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 127 - Senator Gillan moved **SB 127** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 130 - Senator Hamlett moved **SB 130** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 156 - Senator Cooney moved **SB 156** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 160 - Senator Jent moved **SB 160** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 171 - Senator Barkus moved **SB 171** do pass.

SB 171 - Senator Perry moved **SB 171**, second reading copy, be amended as follows:

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

1. Title, line 4.

Following: "CREATING"

Strike: "A CRIMINAL PENALTY FOR"

Insert: "THE OFFENSE OF"

2. Title, line 5.

Following: "PROPERTY;"

Insert: "PROVIDING A PENALTY;"

3. Page 1, line 9.

Strike: "Criminal penalty for damage"

Insert: "Damage"

Following: "(1)"

Strike: "If"

Insert: "A tenant commits the offense of damage to rental property if"

4. Page 1, line 11 through line 13.

Following: "70-33-321(3)" on line 11

Strike: remainder of line 11 through "\$500" on line 13

Insert: ".
(2) A person convicted of the offense of damage to rental property that caused pecuniary loss not exceeding \$1,000 in value shall be fined an amount not to exceed \$1,000"

5. Page 1, line 13.

Following: "for"

Strike: "not more than"

Insert: "a term not to exceed"

Following: "both."

Insert: "A person convicted of the offense of damage to rental property that caused pecuniary loss exceeding \$1,000 in value shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both."

6. Page 1, line 15.

Following: line 14

Insert: "(3) A person convicted of damage to rental property must be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted."

Renumber: subsequent subsection

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 171 - Senator Barkus moved **SB 171**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Zinke.

Total 33

Nays: Barrett, Branae, R. Brown, Cooney, Erickson, Gallus, Juneau, Kaufmann, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, Wanzenried, Williams, Windy Boy, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 2 - Senator Lewis moved **SJR 2** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Esp, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 6 - Senator Hansen moved **SJR 6** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila,

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Wanzenried, Williams, Windy Boy.
Total 38

Nays: Barkus, Black, Brenden, Esp, Essmann, Gebhardt, Lewis, Perry, Ripley, Tutvedt, Zinke, Mr. President.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Perry moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 41 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 126 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 140 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Hinkle, McGee, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 182 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Bales moved SB 22 be referred to Finance and Claims. Motion carried.

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, January 23, 2009. Motion carried.

Senate adjourned at 2:54 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate